

PENNIE & EDMONDS I.P. DOCKET NO. 10165-006-999

DECLARATION
AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below at 201 et seq. underneath my name.

I believe I am the original, first and sole inventor if only one name is listed at 201 below, or an original, first and joint inventor if plural names are listed at 201 et seq. below, of the subject matter which is claimed and for which a patent is sought on the invention entitled

MODULATION OF EXCITABLE TISSUE FUNCTION BY PERIPHERALLY ADMINISTERED ERYTHROPOIETIN

and for which a patent application:

 is attached hereto and includes amendment(s) filed on *(if applicable)* was filed in the United States on April 11, 2000 as Application No. 09/547,220 *(for declaration not accompanying application)*with amendment(s) filed on *(if applicable)* was filed as PCT International Application No. *on* and was amended under PCT Article 19 on *(if applicable)*

I hereby state that I have reviewed and understand the contents of the above identified application, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED PRIOR TO THE FILING DATE OF THE APPLICATION			
APPLICATION NUMBER	COUNTRY	DATE OF FILING (day, month, year)	PRIORITY CLAIMED
			YES <input type="checkbox"/> NO <input type="checkbox"/>
			YES <input type="checkbox"/> NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

APPLICATION NUMBER	FILING DATE
60/118,030	April 13, 1999

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

APPLICATION SERIAL NO.	FILING DATE	STATUS		
		PATENTED	PENDING	ABANDONED

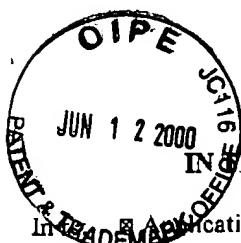
POWER OF ATTORNEY: As a named inventor, I hereby appoint S. Leslie Misrock (Reg. No. 18872), Harry C. Jones, III (Reg. No. 20280), Berj A. Terzian (Reg. No. 20060), David Weild, III (Reg. No. 21094), Jonathan A. Marshall (Reg. No. 24614), Barry D. Rein (Reg. No. 22411), Stanton T. Lawrence, III (Reg. No. 25736), Charles E. McKenney (Reg. No. 22795), Philip T. Shannun (Reg. No. 24278), Francis E. Morris (Reg. No. 24615), Charles E. Miller (Reg. No. 24576), Gidon D. Stern (Reg. No. 27469), John J. Lauter, Jr. (Reg. No. 27814), Brian M. Poissant (Reg. No. 28462), Brian D. Coggio (Reg. No. 27624), Rory J. Radding (Reg. No. 28749), Stephen J. Harbulak (Reg. No. 29166), Donald J. Goodell (Reg. No. 19766), James N. Palitz (Reg. No. 25510), Thomas E. Fricke (Reg. No. 29258), Laura A. Coruzzi (Reg. No. 30742), Jennifer Gordon (Reg. No. 30753), Allan A. Fanucci (Reg. No. 30256), Geraldine H. Baldwin (Reg. No. 31232), Victor N. Balancia (Reg. No. 31231), Samuel B. Abrams (Reg. No. 30605), Steven L. Wallach (Reg. No. 35402), Marcia H. Sundeen (Reg. No. 30893), Paul J. Zegger (Reg. No. 33821), Edmond R. Bannon (Reg. No. 32110), Bruce J. Barker (Reg. No. 33291), Adriane M. Antler (Reg. No. 32605), Thomas G. Rowan (Reg. No. 34419), James G. Murkey (Reg. No. 31636), Thomas D. Kohler (Reg. No. 32797), Scott D. Stimpson (Reg. No. J3607), Gary S. Williams (Reg. No. 31066), William S. Galliani (Reg. No. 33885), Ann L. Cisolfi (Reg. No. 31956), Todd A. Wagner (Reg. No. 35399), Scott H. Famulski (Reg. No. 35514), Kelly D. Talcott (Reg. No. 39582), Francis D. Cerrito (Reg. No. 38100), Anthony M. Insogna (Reg. No. 35203), Brian M. Rothery (Reg. No. 35340), Brian D. Siff (Reg. No. 35679), and Alan Tenenbaum (Reg. No. 34939), all of Pennie & Edmonds I.P., whose addresses are 1155 Avenue of the Americas, New York, New York 10036, 1667 K Street N.W., Washington, DC 20006 and 1300 Hillview Avenue, Palo Alto, CA 94304, and each of them, my attorneys, to prosecute this application, and to transact all business in the Patent and Trademark Office connected therewith.

PENNIE & EDMONDS U.P DOCKET NO. 10165-006-999

SEND CORRESPONDENCE TO:		PENNIE & EDMONDS U.P 1155 Avenue of the Americas New York, N.Y. 10036-2711		DIRECT TELEPHONE CALLS TO: PENNIE & EDMONDS U.P DOCKETING (212) 790-2803	
2 0 1	FULL NAME OF INVENTOR	LAST NAME Brines	FIRST NAME Michael	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY Woodbridge	STATE OR FOREIGN COUNTRY Connecticut	COUNTRY OF CITIZENSHIP United States	
	POST OFFICE ADDRESS	STREET 1 Wepawaug Road	CITY Woodbridge	STATE OR COUNTRY Connecticut	ZIP CODE 06525
2 0 2	FULL NAME OF INVENTOR	LAST NAME Cerami	FIRST NAME Anthony	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY New York City	STATE OR FOREIGN COUNTRY New York	COUNTRY OF CITIZENSHIP United States	
	POST OFFICE ADDRESS	STREET 170 Mercer Street	CITY New York	STATE OR COUNTRY New York	ZIP CODE 10012
2 0 3	FULL NAME OF INVENTOR	LAST NAME Cerami	FIRST NAME Carla	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY Sleepy Hollow	STATE OR FOREIGN COUNTRY New York	COUNTRY OF CITIZENSHIP United States	
	POST OFFICE ADDRESS	STREET 121 Parrington Avenue	CITY Sleepy Hollow	STATE OR COUNTRY New York	ZIP CODE 10591

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF INVENTOR 201 <i>Michael Brines</i> Michael Brines	SIGNATURE OF INVENTOR 202 <i>Anthony Cerami</i> Anthony Cerami	SIGNATURE OF INVENTOR 203 <i>Carla Cerami</i> Carla Cerami
DATE 6/7/00	DATE 6/7/00	DATE 6/7/00



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

~~Intended Application of:~~ Brincks et al.

Application No.: 09/547,220

Group Art Unit: To be assigned

Filed: April 11, 2000

Examiner: To be assigned

**For: MODULATION OF EXCITABLE TISSUE
FUNCTION BY PERIPHERALLY
ADMINISTERED ERYTHROPOIETIN**

Attorney Docket No.: 10165-006-999

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS

[37 CFR 1.9(f) and 1.27(d)] - Nonprofit Organization

**Assistant Commissioner for Patents
Washington, D.C. 20231**

Sir:

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

Name of organization The Kenneth S. Warren Laboratories

Address of organization 765 Old Saw Mill River Road

Tarrytown, New York 10591

Type of organization

University or other institution of higher education

Tax exempt under Internal Revenue Service Code (26 USC 501(a) and 501(c)(3))

Nonprofit scientific or educational under statute of state of the United States of America
(Name of state _____)
(Citation of statute _____)

Would qualify as tax exempt under Internal Revenue Service Code (26 USC 501(a) and 501(c)(3)) if located in the United States of America.

Would qualify as nonprofit scientific or educational under statute of state of the United States of America if located in the United States of America
(Name of state _____)
(Citation of statute _____)

I hereby declare that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.9(e) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code with regard to the invention entitled MODULATION OF EXCITABLE TISSUE FUNCTION BY PERIPHERALLY ADMINISTERED ERYTHROPOIETIN by inventors Michael Brines, Anthony Cerami, Carla Cerami described in

Patent application no. 09/547,220 filed April 11, 2000

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization identified above and/or there is an obligation under contract or law by the inventor(s) to convey rights to the nonprofit organization identified above with regard to the invention.

If the rights held by the nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by

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any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

FULL NAME _____

ADDRESS _____

INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT ORGANIZATION

FULL NAME _____

ADDRESS _____

INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT ORGANIZATION

FULL NAME _____

ADDRESS _____

INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT ORGANIZATION

FULL NAME _____

ADDRESS _____

INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. [37 CFR 1.28 (b)]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

Send correspondence to:

PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, N.Y. 10036-2711

Direct Telephone calls to:
PENNIE & EDMONDS LLP
(212) 790-9090

Name of person signing _____ Carla Crami _____

Title of person other than owner _____ Treasurer _____

Address of person signing _____ The Kenneth S. Warren Laboratories _____

765 Old Saw Mill River Road _____

Tarrytown, New York 10591 _____

Signature _____ Date 6/7/00 _____

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities.
(37 CFR 1.27)

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